



NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR 1204

[Docket No.: NASA-2013-0005]

RIN 2700-AD97

Small Business Policy

AGENCY: National Aeronautics and Space Administration.

ACTION: Direct final rule.

SUMMARY: This direct final rule makes administrative changes to correct organizational information and citations that have changed in a regulation that establishes NASA's small business policy and outlines the delegation of authority to implement this policy, as required by Federal law. The regulation is also being amended to include a reference to NASA's general policy for small business programs and NASA small business subcontracting plan and reporting information. The revisions to this rule are part of NASA's retrospective plan under EO 13563 completed in August 2011. NASA's full plan can be accessed at: <http://www.nasa.gov/open/>.

DATES: This direct final rule is effective on [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Comments due on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. If adverse comment is received, NASA will publish a timely withdrawal of the rule in the Federal Register.

ADDRESSES: Comments must be identified with RIN 2700-AD97 and may be sent to NASA via the Federal E-Rulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitted comments. Please note that NASA will post all comments on the Internet with changes, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Richard Mann, (202) 358-2438.

SUPPLEMENTARY INFORMATION:

Direct Final Rule and Significant Adverse Comments

NASA has determined this rulemaking meets the criteria for a direct final rule because it involves non-substantive changes dealing with NASA's small business policy. NASA expects no opposition to the changes and no significant adverse comments. However, if NASA receives a significant adverse comment, the Agency will withdraw this direct final rule by publishing a document in the Federal Register. A significant adverse comment is one that explains:

(1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or

(2) Why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

Background

NASA's small business policy, published August 17, 1993 [58 FR 43554], was established to enable small businesses, historically black colleges and universities, and other minority educational institutions the opportunity to participate equitably and proportionately in its total purchases and contracts that are consistent with NASA's needs to execute its missions. While this regulation describes NASA's small business policy and outlines the delegation of authority to implement this policy as required by Federal law, NASA's general policy for small business programs is described in 48 CFR part 1819, Small Business Programs [62 FR 36707, July 9, 1997, as amended at 64 FR 25215, May 11, 1999; 65 FR 38777, June 22, 2000; 65 FR 58932, Oct. 3, 2000; 67 FR 53947, Oct. 23, 2001; 69 FR 21765, Apr. 22, 2004], and its small business subcontracting plan and reporting is described in 48 CFR part 1852, Solicitation Provisions and

Contract Clauses [62 FR 36733, July 9, 1997; 62 FR 40309, July 28, 1997, as amended at 64 FR 25215, May 11, 1999].

Statutory Authority

The National Aeronautics and Space Act (the Space Act), 51 U.S.C. 20113 (a), authorizes the Administrator of NASA to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law.

Regulatory Analysis

Executive Order 12866 and Executive Order 13563

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This final rule has been designated a “significant regulatory action,” although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this rule has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601), because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act Statement

This rule does not contain an information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 14 CFR Part 1204

Colleges and universities, Small business.

Accordingly, 14 CFR part 1204 is amended as follows:

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

Subpart 4—Small Business Policy

1. The authority citation for subpart 4 to part 1204 continues to read as follows:

AUTHORITY: 42 U.S.C. 2473(c)(5); 42 U.S.C. 2473b; Public Law 101-507, the VA/HUD/Indep. Agencies Appropriation Act for FY 1991, at 104 Stat. 1380 (Nov. 5, 1990); and 15 U.S.C. 631-650.

2. Section 1204.401 is amended as follows:

a. Paragraph (a) is revised.

b. In paragraph (b), add the parenthesized acronym “(R&D)” after the word “development” in its first occurrence, remove the phrase “research and development” in the second occurrence and add in its place the acronym “R&D,” and remove the phrase “and small disadvantaged” in the last sentence.

The revision reads as follows:

§1204.401 Policy.

(a) It is NASA’s policy to enable small businesses (including small disadvantaged businesses, small women-owned businesses, HUBZone small businesses, veteran-owned small businesses and service disabled veteran-owned small businesses), historically black colleges and universities, and other minority educational institutions the opportunity to participate equitably and proportionately in its total purchases and contracts that are consistent with the Agency’s needs to execute its mission.

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3. Section 1204.402 is revised to read as follows:

§1204.402 Responsibilities.

(a) Office of Small Business Programs (OSBP). The Associate Administrator for Small Business Programs, NASA Headquarters, is responsible for the activities described in NASA Policy Directive 1000.3, The NASA Organization. The Associate Administrator is also responsible for representing NASA before other Government agencies on matters primarily affecting small businesses.

(b) NASA Headquarters and NASA Centers. Center Directors (including the Executive Director for the NASA Shared Services Center and the Director for the NASA Management Office, but excluding the Director for the Jet Propulsion Laboratory) along with the Associate Administrator for the Office of Small Business Programs shall nominate a qualified individual in their contracting office as a small business specialist to provide a central point of contact to which small business concerns may direct inquiries concerning small business matters and participation in NASA acquisitions. When a Center Director determines that the volume of acquisitions or the functions relating to acquisitions at the Center do not warrant a full-time small business specialist, these duties may be assigned to procurement personnel on a part-time basis, with the concurrence of the Associate Administrator for the Office of Small Business Programs. NASA Centers shall establish and maintain liaison with the Small Business Administration (SBA) Procurement Center Representative (PCR) or the appropriate SBA Regional Office in matters relating to NASA Center procurement activities. Small Business Specialists shall perform the duties delineated in NASA FAR Supplement 1819.201(e)(ii). The Associate Administrator for Small Business Programs shall assign a Small Business Technical Advisor to each contracting activity within the Agency to which the SBA has assigned a PCR, pursuant to FAR 19.201(d)(8).

4. Section 1204.403 is revised to read as follows:

§1204.403 General policy.

NASA's general policy for small business programs is described in 48 CFR part 1819, Small Business Programs; 48 CFR part 1852, Solicitation Provisions and Contract; and NASA Policy Directive 5000.2C, Small Business Subcontracting Goals

(<http://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPD&c=5000&s=2>).

Charles F. Bolden, Jr.
Administrator.

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